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Error to Circuit Court, Tazewell County.

Action by Ollie L. Hurt, as administratrix of John B. Hurt, deceased, against the South Atlantic Life Insurance Company. Judgment for plaintiff, and defendant brings error. Affirmed.

Henry & Graham, of Tazewell, and *Thos. B. Gay*, of Richmond, for plaintiff in error.

Greever & Gillespie and *Chapman & Gillespie*, all of Tazewell, for defendant in error.

DICKENSON et al. v. RAMSEY et al.

Nov. 20, 1913.

[79 S. E. 1025.]

1. Alteration of Instruments (§ 29*)—Evidence—Weight and Sufficiency.—In a suit wherein complainants charged that a deed conveying land to their mother for life with remainder to themselves was despoiled, mutilated, and changed after its execution and before its recording by striking out the grant of the remainder, clear, cogent, and convincing evidence in support of such allegations was required.

[Ed. Note.—For other cases, see *Alteration of Instruments*, Cent. Dig. §§ 259-263; Dec. Dig. § 29.* 1 Va.-W. Va. Enc. Dig. 314; 14 Va.-W. Va. Enc. Dig. 41; 15 Va.-W. Va. Enc. Dig. 39.]

2. Fraud (§ 41)—Evidence—Sufficiency.—Fraud must be clearly alleged and proved, as every presumption is in favor of innocence and not of guilt.

[Ed. Note.—For other cases, see *Fraud*, Cent. Dig. §§ 36, 37; Dec. Dig. § 41.* 6 Va.-W. Va. Enc. Dig. 496; 14 Va.-W. Va. Enc. Dig. 476.]

3. Alteration of Instruments (§ 22*)—Remedies.—Where a deed granting land to a person for life, with remainder to her children, was altered after its execution and before its recording by striking out the grant of the remainder, a court of equity could grant relief to the remaindermen.

[Ed. Note.—For other cases, see *Alteration of Instruments*, Dec. Dig. § 22.* 1 Va.-W. Va. Enc. Dig. 307; 14 Va.-W. Va. Enc. Dig. 41; 15 Va.-W. Va. Enc. Dig. 39.]

4. Alteration of Instruments (§ 29*)—Evidence—Weight and Sufficiency.—In a suit wherein complainants claimed that a deed conveying land to their mother for life with remainder to themselves was altered after its execution and before its recording by striking out the grant of the remainder, evidence held insufficient to show

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

that the deed when originally executed was as claimed by them; the record thereof purporting to convey a fee simple to the mother.

[Ed. Note.—For other cases, see *Alteration of Instruments*, Cent. Dig. §§ 259-263; Dec. Dig. § 29.* 1 Va.-W. Va. Enc. Dig. 314; 14 Va.-W. Va. Enc. Dig. 41; 15 Va.-W. Va. Enc. Dig. 39.]

Appeal from Circuit Court, Russell County.

Suit by Charles Ramsey and others against Caroline Dickenson and others. From a decree for complainants, defendants appeal. Reversed.

Routh & Routh, of Lebanon, *Vicars & Peery*, of Wise, and *R. S. Graham*, of Norton, for appellants.

W. W. Bird, of Lebanon, for appellees.

MAY et al. v. SHERRARD'S LEGATÉES et al.

Nov. 20, 1913.

[79 S. E. 1026.]

1. **Wills (§§ 194, 751*)—Revocation—Bequests and Devisees Subject to Ademption.**—A testatrix gave a dwelling house and lot to be sold and equally divided between two grandnephews. In another clause she provided that, in the event of the death of one of such grandnephews, she willed one-half of such house when sold to a grandniece. A codicil stated that she had sold such house, and invested the proceeds in two other houses and lots. Held, that the gift to the grandnephews, whether treated as a gift of the house and lot itself, or as a gift of the proceeds of a sale thereof, was a specific legacy or device, and in either case was revoked by the sale of the house and lot by the testatrix in her lifetime.

[Ed. Note.—For other cases, see *Wills*, Cent. Dig. §§ 481-489, 1938; Dec. Dig. §§ 194, 751.* 13 Va.-W. Va. Enc. Dig. 758.]

2. **Wills (§ 750*)—Legacies—Specific Legacies.**—As a general rule, a legacy will not be construed as specific unless it appears clearly to have been so intended, and whether or not it is specific depends wholly upon the language of the will.

[Ed. Note.—For other cases, see *Wills*, Cent. Dig. §§ 1936, 1937; Dec. Dig. § 750.* 13 Va.-W. Va. Enc. Dig. 851.]

Appeal from Corporation Court of Staunton.

Suit by Maria L. Sherrard's executor against Maria L. Sherrard's legatees and others. From the judgment, J. H. May, guardian ad litem of certain defendants, and others appeal. Affirmed.

Quarles & Pilson, of Staunton, for appellants.

Timberlake & Nelson, *Robertson & Robertson*, and *W. H. Landes*, all of Staunton, for appellees.

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.